

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3087 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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BATUKBHAI CHIMANLAL JAYSWAL B/O DETENU PRAKASH C JAYSWAL

Versus

STATE OF GUJARAT

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Appearance:

Mr. B.M.Mangukiya for MR RS SANJANWALA for Petitioner  
Mr.Nigam Shukla,learned Asst.G.P.for the  
respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 07/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the detention order dated 18-4-96 passed by the Police Commissioner, Baroda City whereby the detenu has been detained under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on 18-4-96 itself and since then the

detenu is under detention.

2. The present Special Civil Application was filed in this court on 23-4-96 and Rule returnable on 10-7-96 was issued. An affidavit in reply has been filed on behalf of the Commissioner of Police, Baroda City.

3. The grounds enclosed with the detention order show that 3 criminal cases under the provisions of Bombay Prohibition Act were registered against the detenu. Besides these, the detaining authority has taken into consideration the statements made by 3 witnesses against detenu's anti social and bootlegging activities. The detenu has been detained as a bootlegger.

4. The detention order has been challenged on more than one grounds. But the learned counsel for the petitioner has submitted that no case of breach of public order is made out.

5. In view of the decision dated 4-10-96 in Special Civil Application No.3879/96 it is clear that the allegations and materials relied upon by the detaining authority against the detenu do not constitute a case of breach of public order. It is at the most a case of breach of law and order. The detention order, therefore, deserves to be set aside on this ground alone.

6. Accordingly the Special Civil application is allowed and the impugned detention order dated 18-4-96 passed by the Police Commissioner, Baroda City is hereby quashed and set aside and the detenu's detention is declared to be illegal. The respondents are directed to release the detenu and set him at liberty forthwith, if not required in any other case. Rule is made absolute.